

**Order 96-10-17**

**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

**SERVED OCT 15 1996**

Issued by the Department of Transportation  
on the 9th day of October, 1996

Applications of

**AIR ARUBA, N.V.**

**AIR ESPANA, S.A. T/A AIR EUROPA  
AIR UKRAINE**

**ANTONOV DESIGN BUREAU**

**HAYTIAN AVIATION LINES, S.A. D/B/A HALISA AIR**

**JAPAN AIR LINES COMPANY, LTD.  
NORDIC EUROPEAN AIRLINES INTERNATIONAL  
AB  
TAINO AIR LINES, S.A.**

Dockets	OST-96-1250
	OST-96-1146
	OST-95-110
	OST-95-794
	OST-96-1406
	OST-96-1454
	OST-96-1087
	OST-95-662
	OST-96-1617
	48300
	OST-96-1025

for exemptions or authorities under 49 U.S.C.  
section 40109 and the orders and regulations  
of the Department of Transportation

**ORDER**

The foreign air carriers referenced in the attached Notices of Action Taken have applied for various forms of authority or relief from Title 49 of the U.S. Code or regulations or orders of the Department in order to perform the air transportation activities shown in the attached Notices of Action Taken. Except as noted, no answers were filed to these requests. Because of the imminence of these

operations, we approved them by telephone, subject to adherence, by each applicant, to the conditions set forth in its foreign air carrier permit, and/or conditions attached.

We carefully considered the information set forth in each application described in the attached Notices of Action Taken, and we found that each of the proposed operations was consistent with the public interest and was consistent with an

-2-

applicable bilateral aviation agreement and/or our aviation relationship with the applicant's homeland, that each applicant was qualified to perform its proposed operations, and that each application should be approved.

For applicant carriers seeking initial operating authority, we determined, based on the record in those proceedings, that those carriers were financially and operationally qualified to conduct the services they proposed, and, unless otherwise noted, that they were substantially owned and effectively controlled by citizens of their respective homelands.

Under authority assigned by the Department in its Regulations, 14 CFR Part 385, we found that for each operation (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption or authority was consistent with the public interest; and (3) grant of this authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.

ACCORDINGLY,

1. We confirm the actions described in the attached Notices of Action Taken, which granted the referenced foreign air carriers (1) exemptions from the provisions of sections 41301, and where necessary 41504, and/or other sections of Title 49 of the U.S. Code; and/or (2) relief or authorizations provided for under regulations or orders of the Department, to the applicants to perform the operations described in the attached Notices of Action Taken;
2. In the conduct of the service, each applicant was to adhere to the conditions set forth in Appendix A, and to any other conditions as noted in the attached Notices of Action Taken;

3. To the extent not granted, or explicitly deferred as noted in the attached Notices of Action Taken, these applications are denied; and

4. We may amend, modify, or revoke this order at any time without hearing.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.50, may file their petitions within ten (10)

-3-

days after the date of service of this order. The filing of a petition for review of a particular action shall affect this order only as it concerns that action.

These actions were effective when taken, and the filing of a petition for review will not alter their effectiveness.

By:

PAUL L. GRETCH  
Director  
Office of International Aviation

(SEAL)

**CONDITIONS OF AUTHORITY**

In the conduct of the operations authorized, the holder shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, including, but not limited to, 14 CFR Parts 129, 91, and 36;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Department's Regulatory Analysis Division, X-57, Office of Aviation Analysis (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are:
  - (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of

origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or

(b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States.

**Appendix A**  
**Page 2 of 2**

In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;

(8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;

(9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;

(10) If charter operations are authorized, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and

(11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code.

(41301/40109) 7/94



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

### **DOCKETS OST-96-1250/96-1146 & 95-110**

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applicant: **Air Aruba, N.V.**  
**over)**

Dates Filed: **April 10, 1996 (see**

Relief requested: **Exemption from 49 U.S.C. 41301 to renew and amend existing authorities to conduct scheduled foreign air transportation of persons, property and mail between a point or points in Aruba, via the intermediate points Bonaire and Curacao, and the coterminal points Miami, Florida; New York, New York (including Newark); Baltimore, Maryland; Tampa, Florida; and Houston, Texas; and to perform charters in accordance with Part 212 of the Department's rules.**

If renewal, date and citation of last action: **OST-96-1250, granted April 11, 1995, confirmed by Order 95-7-26 & OST-95-110, granted February 25, 1995, confirmed by Order 95-7-26.**

Applicant representative: Bruce H. Rabinovitz (202) 637-9036

Responsive Pleadings: The Hillsborough County Aviation Department filed in support of Air Aruba's renewal application in Docket OST-95-110. No other pleadings were filed in any of the noted dockets.

### **DISPOSITION**

Action: **Approved**

Action date: **August 13, 1996**

Effective dates of authority granted: **August 13, 1996-August 13, 1997**

Basis for approval (bilateral agreement/reciprocity): Grant of Air Aruba's request to serve Houston is based on comity and reciprocity. Renewal of its request to serve Tampa is

(over)

in the public interest and consistent with the criteria of our “Cities Program” (Order 90-1-62). The remainder of Air Aruba’s request to renew and amend its existing authority is encompassed in the Air Transport Agreement between the United States and Aruba.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated: **Standard Exemption Conditions**

Special conditions/Partial grant/Denial basis/Remarks:

Action taken by:

Paul L. Gretch, Director  
Office of International Aviation  
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)

### **Summary of Applications**

**Docket OST-96-1250, filed April 10, 1996. Air Aruba seeks renewal of its exemption authority last granted April 11, 1995, and confirmed by Order 95-7-26, to engage in scheduled foreign air transportation of persons, property and mail between Aruba, via Bonaire and Curacao, and the coterminal points Miami, Florida; New York, New York (including Newark); and Baltimore Maryland; and to conduct charters subject to 14 CFR Part 212.**

**Docket OST-96-1146, filed March 13, 1996, as amended July 11, 1996. Air Aruba seeks to provide scheduled combination services between Aruba and Houston, Texas, and to coterminalize Houston and its existing Tampa services.**

**Docket OST-95-110, filed February 23, 1996. Air Aruba seeks renewal of its exemption authority last granted February 25, 1995, and confirmed by Order 95-7-26, to engage in scheduled combination services between Aruba and Tampa, Florida, and to coterminalize Tampa and its existing Miami and Baltimore services. Air Aruba’s authority confirmed in Order 95-7-26 included authority to serve Charlotte, North Carolina. In its renewal application filed February 23, 1996 (Docket OST-95-110), Air Aruba specifically requested that we not renew its authority to serve Charlotte .**



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

**DOCKET OST-95-794**





**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

**DOCKET OST-96-1406**





**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

**DOCKET OST-96-1454**



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

**DOCKET OST-96-1087**



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

### **DOCKET OST-95-662**

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applicant: **Japan Air Lines Company, Ltd.**

Date Filed: **n/a**

**Sua sponte exemption modifying our action in Order 96-3-63, to the extent necessary, to permit JAL to operate up to seven weekly combination frequencies between Sendai, Japan, and Honolulu, Hawaii, through September 20, 1996.**

If renewal, date and citation of last action: **July 19, 1996, Notice of Action Taken**

Applicant representative: Jeffrey N Shane (202) 663-6909

Responsive Pleadings: **None**

### **DISPOSITION**

Action: **Approved**

Action date: **August 29, 1996**

Effective dates of authority granted: **September 5, 1996-September 20, 1996 (the expiration date of JAL's Sendai authority in Order 96-3-63)**

Basis for approval (bilateral agreement/reciprocity): **Reciprocity with Japan**

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated: **Order 96-3-63 and JAL's foreign air carrier permit (Order 70-8-66).**

Action taken by:

Paul L. Gretch, Director  
Office of International Aviation  
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

### **DOCKET OST-95-662**

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applicant: **Japan Air Lines Company, Ltd.**

Date Filed: **n/a**

**Sua sponte exemption modifying our action in Order 96-3-63, to the extent necessary, to permit JAL to operate up to seven weekly combination frequencies between Sendai, Japan, and Honolulu, Hawaii, through September 4, 1996.**

If renewal, date and citation of last action: **July 16, 1996, Notice of Action Taken**

Applicant representative: Jeffrey N Shane (202) 663-6909

Responsive Pleadings: **None**

### **DISPOSITION**

Action: **Approved**

Action date: **July 19, 1996**

Effective dates of authority granted: **August 16 - September 4, 1996**

Basis for approval (bilateral agreement/reciprocity): **Reciprocity with Japan**

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated: **Order 96-3-63 and JAL's foreign air carrier permit (Order 70-8-66).**

Action taken by:

Paul L. Gretch, Director  
Office of International Aviation  
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

### **DOCKET OST-95-662**

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applicant: **Japan Air Lines Company, Ltd.**

Date Filed: **n/a**

**Sua sponte exemption modifying our action in Order 96-3-63, to the extent necessary, to permit JAL to operate up to seven weekly combination frequencies between Sendai, Japan, and Honolulu, Hawaii, through August 15, 1996.**

If renewal, date and citation of last action: **July 5, 1996, Notice of Action Taken**

Applicant representative: Jeffrey N Shane (202) 663-6909

Responsive Pleadings: **None**

### **DISPOSITION**

Action: **Approved**

Action date: **July 16, 1996**

Effective dates of authority granted: **July 16-August 15, 1996**

Basis for approval (bilateral agreement/reciprocity): **Reciprocity with Japan**

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated: **Order 96-3-63 and JAL's foreign air carrier permit (Order 70-8-66).**

Action taken by:

Paul L. Gretch, Director  
Office of International Aviation  
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

### **DOCKET OST-95-662**

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applicant: **Japan Air Lines Company, Ltd.**

Date Filed: **n/a**

**Sua sponte exemption modifying our action in Order 96-3-63, to the extent necessary, to permit JAL to operate up to seven weekly combination**





**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

**DOCKET OST-96-1617**

**controlled by nationals of Sweden. Nordic European states that it is a Swedish corporation, wholly owned by one individual (Gunnar Ohlsson).**

Action taken by:

Paul L. Gretch, Director  
Office of International Aviation  
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## **NOTICE OF ACTION TAKEN**

### **DOCKETS 48300 & OST-96-1025**

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applicant: **Taino Air Lines, S.A** Date Filed: **August 9, 1994**  
(Docket 48300) and January 24, 1996 (Docket OST-96-1025)

Relief requested: **Exemption from 49 U.S.C. 41301 to conduct scheduled foreign air transportation of property and mail between Santo Domingo, Dominican Republic, and the coterminal points Miami, Florida; New York, New York; and San Juan and Aguadilla, Puerto Rico.** (see below)

If renewal, date and citation of last action: **September 3, 1993, confirmed by Order 95-1-3 (Docket 48300). The authority in Docket OST-96-1025 is new.**

Applicant representative: William C Buckhold (202) 467-5900

Responsive Pleadings: In Docket 48300 United Air Lines, Inc. filed and answer in response to Taino's request asking that we limit the term of any authority to Taino partial opposition to Taino's renewal request because of the government of the Dominican Republic had not authorized its code-share services to Santo Domingo. Taino filed a reply. By motion dated September 27, 1996, United withdrew its opposition in Docket 48300.

### **DISPOSITION**

Action: **Approved**

Action date: **September 27, 1996**

Effective dates of authority granted: **September 27, 1996-September 27, 1997**

Basis for approval (bilateral agreement/reciprocity): **Bilateral aviation agreement between the United States and the Dominican Republic**

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated: **Standard exemption conditions**

Special conditions/Partial grant/Denial basis/Remarks: **The authority granted above is limited to services performed by wet lease with a duly authorized and properly supervised U.S. or foreign air carrier.**

(over)

**In Docket 48300, Taino requested renewal of its authority to serve Miami and New York. In Docket OST-96-1025, Taino requested Department authority to amend its underlying Miami and New York authority to include San Juan and Aguadilla, Puerto Rico.**

Action taken by:

Paul L. Gretch, Director  
Office of International Aviation  
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## NOTICE OF ACTION TAKEN

### DOCKET OST-

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applicant: . Date Filed:

Relief requested: **Exemption from 49 U.S.C. 41301 to conduct**

If renewal, date and citation of last action:

Applicant representative:

Responsive Pleadings:

### DISPOSITION

Action: **Approved**

Action date:

Effective dates of authority granted:

Basis for approval (bilateral agreement/reciprocity):

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:

Special conditions/Partial grant/Denial basis/Remarks:

Action taken by:

Paul L. Gretch, Director  
Office of International Aviation  
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)

